

## REMARKS

Claims 1-9, 11-22 and 24-34 remain in this application, with Claims 1, 14, 27, 31, 32, 33 and 34 being in independent form. By the present amendment, Claims 1, 14, 27 and 32 have been amended and Claim 31 has been cancelled. Adequate support for the amendments is provided in the specification and in the figures. No new matter or issues are believed to be introduced by the amendments.

Applicants' representative gratefully acknowledges the Examiner for taking the time to discuss this case on June 3, 2005. The claims have been amended herein in line with the discussions between Applicants' representative and the Examiner.

In the Office Action mailed on March 24, 2005, Claims 19, 11-22 and 24-34 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,249,008, issued to Bunte et al. ("Bunte et al."). Applicants have amended independent Claims 1, 14, 27 and 32 to better define Applicants' invention. Claim 31 has been cancelled.

It is Applicants' belief that independent Claims 1, 14, 27, 32, 33 and 34 as presented patentably distinguish Applicants' invention over the disclosure of Bunte et al., taken alone or in any proper combination. In particular, Applicants' Claims 1, 14, 27, 32, 33 and 34 recite functionally different systems, computer-readable medium and method than what is disclosed by Bunte et al., as emphasized by the portions underlined below. Hence, the subject matter of Claims 1, 14, 27, 32, 33 and 34 is not anticipated by the disclosure of Bunte et al.

Applicants' Claim 1 recites:

A method for imaging an optical code comprising the steps of:  
consecutively imaging an optical code respectively using at least a first and a  
second imaging setting;  
generating at least first and second sets of image data respectively corresponding  
to the consecutive imaging using the first and second imaging settings;

evaluating at least one of the first and second sets of image data;  
selecting at least one of the first and second sets of image data in accordance  
with the evaluation; and  
decoding image data from the selected set of image data that corresponds to the  
optical code.

Applicants' Claim 14 recites:

A system for imaging an optical code comprising:  
means for consecutively imaging an optical code respectively using at least a first  
and a second imaging setting;  
means for generating at least first and second sets of image data respectively  
corresponding to the consecutive imaging using the first and second imaging settings;  
means for evaluating at least one of the first and second sets of image data;  
means for selecting at least one of the first and second sets of image data in  
accordance with the evaluation; and  
means for decoding image data from the selected set of image data that  
corresponds to the optical code.

Applicants' Claim 27 recites:

An optical code reading system comprising:  
an imaging engine having a lens assembly and a photo sensor array for  
consecutively imaging an optical code located in a field of view of the imaging engine  
respectively using at least a first and a second imaging setting, and generating at least  
first and second sets of image data respectively corresponding to the consecutive  
imaging using the first and second imaging settings;  
processing means for evaluating at least one of the first and second sets of image  
data, and selecting at least one of the first and second sets of image data in accordance  
with the evaluation; and  
processing means for decoding image data from the selected set of image data  
that corresponds to the optical code.

Applicants' Claim 32 recites:

A method for imaging an optical code comprising the steps of:  
consecutively imaging said optical code respectively using at least a first and a  
second imaging setting;  
generating at least first and second sets of image data respectively corresponding  
to the consecutive imaging using the first and second imaging settings; and  
transmitting the first and second sets of image data to an external processor for  
processing of the image data, wherein the external processor processes the first and  
second sets of image data in accordance with a processing method comprising the  
steps of:

evaluating at least one of  
the first and second sets of image data;  
selecting at least one of the first and second sets of image data in accordance with  
the evaluation; and  
decoding image data from the selected set of image data that corresponds to the  
optical code.

Applicants' Claim 33 recites:

A computer readable medium storing programmable instructions capable of  
being executed by a processor for performing the steps of:  
receiving at least first and second sets of image data corresponding to  
consecutive imaging of an optical code using respective at least first and second image  
settings;  
evaluating at least one of the first and second sets of image data;  
selecting at least one of the first and second sets of image data in accordance with  
the evaluation; and  
decoding image data from the selected set of image data that corresponds to the  
optical code.

Applicants' Claim 34 recites:

A computer data signal embodied in a transmission medium for execution  
by at least one processor for processing an imaged optical code, the data signal  
comprising:  
a code segment including instructions for receiving at least first and second sets  
of image data corresponding to consecutive imaging of an optical code using respective at  
least first and second image settings;  
a code segment including instructions for evaluating at least one of the first and  
second sets of image data;  
a code segment including instructions for selecting at least one of the first and  
second sets of image data in accordance with the evaluation; and  
a code segment including instructions for decoding image data from the selected  
set of image data that corresponds to the optical code.

As recited in independent Claims 1, 14, 27, 32, 33 and 34, two consecutive imaging  
operations are performed using first and second imaging settings, respectively. The two  
consecutive imaging operations are performed before evaluating the image data which  
corresponds to the two consecutive imaging operations. Image data is defined in the  
specification of the present application on page 10, line 18, as an array pixel signals

corresponding to sensed light. The evaluating, selecting and decoding are performed in sequential order, as each subsequent step depends on the results of a previous step. Accordingly, the decoding is performed after the two consecutive imaging operations.

Bunte et al. does not disclose or suggest at least the emphasized limitations of Claims 1, 14, 27, 32, 33 and 34. Bunte et al. is directed to an apparatus and method for reading an optical code. The apparatus described by Bunte et al. includes an illuminator set which may be configured to have multiple types of illuminators, a sensor assembly which may be configured to have multiple focusing capabilities and/or multiple sets of detectors for sensing reflected light. The reader further has a decode circuit which may be configured to have multiple processors (which may include a digital signal processor (DSP)) for running a decode routine set, which may be selectable from multiple decode routines sets. A read operation may be performed using a combination of devices and routines including an illuminator, a focusing capability, a set of detectors, a processor for decoding and a set of decode routines, each of which may be selectable if more than one choice is available on the particular reader in accordance with its present configuration. Several combinations may be available.

Bunte et al. discloses at column 31, line 39 through column 32, line 22, and FIG. 23, a method for performing a read operation. A compatible combination of devices and routines is selected and a first read operation, including a first imaging operation and a first decode attempt, is performed. After performing the first decode attempt, an evaluation of the status of the first decode attempt of the first read operation is performed. If the first decode attempt was successful, the decoded code is used for further processing. Otherwise, a second read operation including a second imaging operation and a second decode attempt is performed, which may be performed using another selection of compatible combination of devices and routines. An

evaluation of the status of the second decode attempt of the second read operation is performed. Accordingly, Bunte et al. performs a decode operation on data generated from the first imaging operation before performing the second decode operation.

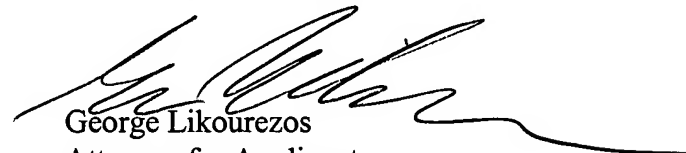
Bunte et al. does not evaluate first and second sets of image data, or select from the results of the evaluation, as recited by Applicants' independent Claims 1, 14, 27, 32, 33 and 34. On the contrary, Bunte et al. evaluates decode results. Bunte et al. does not perform a decode operation on selected data, as recited by Applicants' independent Claims 1, 14, 27, 32, 33 and 34. On the contrary, Bunte et al. attempts a decode operation on image data generated for each imaging operation. Bunte et al. does not perform two imaging operations before performing a decode operation, as recited in Applicants' independent Claims 1, 14, 27, 32, 33 and 34. On the contrary, Bunte et al. performs a first imaging operation and a decode operation on image data generated for the first imaging operation. Next, if the first decode operation failed, Bunte et al. performs a second imaging. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) with respect to independent Claims 1, 14, 27, 32, 33 and 34 and allowance thereof are respectfully requested.

Dependent Claims 2-9 and 11-13; 15-22 and 24-26; and 28-30 depend from Claims 1, 14 and 27, respectively, and therefore include the limitations of Claims 1, 14 and 27. Accordingly, for at least the same reasons given for Claims 1, 14 and 27, Claims 2-9, 11-13, 15-22, 24-26 and 28-30 are believed to contain patentable subject matter. Accordingly, withdrawal of the rejection under 35 U.S.C. §102(b) with respect to Claims 2-9, 11-13, 15-22, 24-26 and 28-30 and allowance thereof are respectfully requested.

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-9, 11-22, 24-30 and 32-34, are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicants' undersigned attorney at (631) 501-5706.

Respectfully submitted,



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Encl.